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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,170

06/30/2005

Ingolf Matthies

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6185

23307 7590 03/18/2008  
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EXAMINER

PEDDER, DENNIS H

ART UNIT

PAPER NUMBER

3612

MAIL DATE

DELIVERY MODE

03/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/541,170	<b>Applicant(s)</b> MATTHIES, INGOLF	
	<b>Examiner</b> Dennis H. Pedder	<b>Art Unit</b> 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-34,36,37,39 and 41-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-34,36,37,39 and 41-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/05 & 2/07 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☒ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/30/2005</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “independently mounted (sic: mountable) (member 2), and “adjustably positionable”, claim 21, adjustably connectable, claim 25, shaped parts releasably connected (member 2), claims 41,42 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The line 10 is not even suggestive of any type of mounting, but merely a line segment. There are no slotted openings shown to allow the claimed function.

2. The drawing of figure 2 was received on 2/26/2007. This figure 2 is not acceptable as the numeral 24 has no lead line, rendering comprehension as to its object not understandable.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 21-34, 36-37, 39, 41-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are functional, with structure or means for the functions of “independently mountable and adjustably positionable and adjustably connectable. Further, the contact between sealing lip and window pane is not possible without a positive connection of the shaped parts and the frame structure.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 21-24, 26-33, 36-37, 39, 42-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Reid, Plottnik, and Florentin et al.

7. All three references have independent shaped parts with sealing lips thereon for contacting the window pane at 17-19, 6/22, 6/3. Each is mounted independently to the respective

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frame structure. Each is adjustable positionable via commonly known shims, bending of the mounting flange 8/10, and insertion depth of the carrier 600, respectively. Consequently, It would have been obvious to one of ordinary skill to provide adjustable positioning of the shaped parts as an obvious expedient to adjust inadequate or excessive sealing pressure to thereby reduce wind noise or to enhance window pane movement.

8. As to claim 22, coated sealing members are common knowledge in the art, obvious to use here to reduce friction and enhance durability.

Applicant may seasonally challenge, for the official record in this application, this and any other statement of judicial notice in timely manner in response to this office action. Please specify the exact statement to be challenged. Applicant is reminded, with respect to the specific challenge put forth, of the duty of disclosure under Rule 56 to disclose material which is pertinent to patentability including claim rejections challenged by applicant.

As to claim 23, all have depth to the pane receiving space.

As to claims 24, all have a parallel base.

As to claim 26, all have a sealing profile.

As to claims 27-28, 36-37, 39, 47, 48 such materials are of common knowledge in the art, obvious to use here for their known characteristics.

As to claim 30, curving of a sealing member to follow a curved channel shape in plan view is well known in this art, obvious to use to follow the design considerations of the vehicle and maintain the sealing characteristics.

As to claim 32, all have the base attached to the frame and a side sealing part parallel to the pane in installed condition.

As to claims 41-42, all are releasable in the reverse of assembly.

9. Claims 25, 34, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Plottnik or Reid.

10. Both references have a base substantially parallel to an edge portion 8/10 and 16, respectively of the frame structure, and are both adjustable in a direction toward the pane via bending at 8/10 and shims, respectively, both common techniques in the art.

#### ***Priority***

11. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 3/18/2003. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b).

#### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mailand et al. is cited to show slotted adjustment of a seal.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667.

The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dennis H. Pedder/  
Primary Examiner, Art Unit 3612

Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

DHP  
3/12/2008